

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-v.-

VITO FORESTIER,

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 7/11/06

:
: ORDER PURSUANT TO
: 21 U.S.C. § 853
:
: 05 Cr. 1280 (KMK)

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This matter comes before the Court for an Order authorizing the Government and its agencies to maintain custody of certain property pending the conclusion of the pending criminal case.

WHEREAS on November 7, 2005, agents of the New York Police Department ("NYPD") seized \$19,000.00 in United States Currency (the "Seized Asset") pursuant to an arrest. This case was then referred to the Drug Enforcement Administration ("DEA") for administrative forfeiture;

WHEREAS on December 1, 2005, the Government obtained an Indictment (the "Indictment") charging the defendant with participating in a narcotics conspiracy in violation of 21 U.S.C. §§ 812, 841(a)(1), and 841(b)(1)(C). The Indictment also contained a forfeiture allegation seeking to forfeit, any and all property constituting or derived from any proceeds obtained directly or indirectly as a result of the charged offense and any and all property used or intended to be used in any manner or part to

commit and to facilitate the commission of the charged offense, and is now pending in this Court;

WHEREAS on March 21, 2006, VITO FORESTIER, the defendant, filed a claim contesting the administrative forfeiture pursuant to 18 U.S.C. § 983(a)(2) of the Seized Asset;

WHEREAS on March 22, 2006, YVONNE LAVAYAN, who claims to be the defendant's girlfriend, filed a claim contesting the administrative forfeiture pursuant to 18 U.S.C. § 983(a)(2) of the Seized Asset.

WHEREAS on June 2, 2006, the Government filed a Bill of Particulars specifying the Seized Asset;

WHEREAS the Seized Asset is already in the lawful custody of the Government; and

WHEREAS the Government has represented to the Court that it will maintain and preserve the Seized Asset throughout the pending criminal case so that it will be available for forfeiture; and

WHEREAS the Seized Asset is alleged to be forfeitable to United States as proceeds from property used to facilitate illegal narcotics trafficking activities, as alleged in Count One of the Indictment;

WHEREAS section 982 of Title 18, United States Code, provides that "the forfeiture of property under this section, including any seizure and disposition of the property under this

section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by" § 853 of Title 21, United States Code (except subsection (d)); and


WHEREAS section 853(e)(1) authorizes the Court to take any action necessary to preserve the availability of property for forfeiture;

IT IS HEREBY ORDERED that the United States and its agencies, including the DEA and/or the U.S. Marshals Service, are authorized to maintain and preserve the Seized Asset until the conclusion of the instant criminal case, pending further Order of this Court,

AND IT IS FURTHER ORDERED that this Order satisfies the requirements described in 18 U.S.C. § 983.

Dated: New York, NY
July 6, 2006

SO ORDERED:



HONORABLE KENNETH M. KARAS
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF NEW YORK